

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1704 - SB 1758

January 28, 2022

SUMMARY OF BILL: Updates the conflict of interest provisions under the *County Purchasing Law of 1957*. Defines "direct interest" and "indirect interest" for purposes of conflicts of interests for certain county officers. Authorizes a county officer to have an indirect interest if the person publicly acknowledges it.

Changes the penalty for such a violation from a Class D felony offense to forfeiture of certain compensation and removal from office.

FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Pursuant to Tenn. Code Ann. § 5-14-114, certain county officers are prohibited from having any direct or indirect personal interest in the purchase of supplies, materials, equipment, or contractual services for the county.
- The proposed language will authorize all county officers to have an indirect interest in the purchase of supplies, materials, equipment, and contractual service if the person publicly acknowledges such interest.
- The Court of Criminal Appeals issued a ruling on September 26, 2000, *State v. Whitehead*, that Tenn. Code Ann. § 5-14-114 is unconstitutional.
- It can be reasonably assumed that counties have not been compelled to abide by current law and therefore, authorizing a county officer to have an indirect interest in county purchases and contractual services will not result in any significant impact to local expenditures.
- Based on information provided by the Administrative Office of the Courts, there have been no convictions for offenses under Tenn. Code Ann. § 5-14-114 in the past five years.
- The courts will not experience any impact on caseloads; therefore, any impact to the court system is estimated to be not significant.
- Due to the fact that there have been zero convictions under Tenn. Code Ann. § 5-14-114, it is assumed that this conviction rate will remain in perpetuity; therefore, the state will not realize a decrease in incarceration expenditures for the deletion of the Class D felony offense.

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- Further, it can reasonably be estimated that there will not be a significant fiscal impact to local governments resulting from forfeiture of compensation and removal from office of a county officer.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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